

**Interpretation of the Director
Under Seattle Municipal Code Title 23**

Regarding the Use of the

Property at

300 Terry Avenue N

**DPD Interpretation No. 13-007
(DPD Project No. 3016118)**

Background

This interpretation was requested by South Lake Union Hotel LLC and its General Counsel, Denise Hannan. South Lake Union Hotel LLC (hereafter “South Lake Union Hotel”) owns or controls a development site in the South Lake Union neighborhood at the northwest corner of Terry Avenue North and Thomas Street. The property is presently developed with a medical office building constructed in 1954. South Lake Union Hotel has proposed to redevelop the site with a 160-foot tall hotel structure in an existing Master Use Permit (MUP) application filed under previous regulations. However, South Lake Union Hotel now seeks to modify its current permit application to add stories to its project up to a height of 240 feet under the current zoning and current regulations. One requirement of the current zoning regulations is a “tower spacing” standard that limits the number of towers that are allowed on any given block to one tower. The current 160-foot South Lake Union Hotel project is nonconforming to this standard, since existing development includes two existing towers on the same block. The question for interpretation is whether the addition of stories to the 160-foot tower proposal would be allowed under the current tower spacing standards of the Land Use Code.

Findings of Fact

1. The South Lake Union Hotel property is described as Lots 7 and 8, Block 101, D. T. Denny’s 5th Addition, less portions condemned for street use. The property has a total area of about 13,800 square feet, according to records of the King County Assessor’s Office.
2. The current zoning designation is SM 160/85-240: Seattle Mixed, with a structure height limit of 160 feet for structures containing non-residential and live-work uses and a base height limit of 85 feet for portions of a structure in residential use and a maximum height limit of 240 feet for structures containing residential use and meeting the requirements of

Section 23.48.013, 23.48.014, and Chapter 23.58A. Prior to June 13, 2013, the zoning was IC-65: Industrial-Commercial, with a structure height limit of 65 feet, or up to 160 feet pursuant to Sections 23.50.026.D.2 and 23.50.051, compliance with requirements for additional floor area in the South Lake Union Urban Center.

3. The property shares the city block bounded by Terry Avenue North, Thomas Street, Boren Avenue North, and Harrison Street with an office development comprised of two 12-story office towers built over a single large “podium” structure, known as “Amazon Phase IV.” A land use map of the block and aerial photo, both marking the subject site with a small red dot, are as follows:



When Amazon Phase IV was built, the applicable zoning was IC-65. See also Finding of Fact No. 10 below.

4. On May 14, 2013, South Lake Union Hotel, its parent Stanford Hotels, and their agent architect Kurt Jensen filed an application for Department of Planning and Development (DPD) Master Use Permit (MUP) No. 3013982 on the property addressed as 300 Terry Avenue North, to allow a 15-story structure containing 283 hotel rooms with 11,000 square feet of conference facilities and 7,300 square feet of restaurant space. The existing medical office structure on the property is proposed to be demolished. This application is currently under review by DPD. Because it was submitted prior to the effective date of the current zoning regulations, South Lake Union Hotel’s proposal to build this 160-foot tall hotel and commercial building is also vested to the IC-65 zoning.
5. On June 3, 2013, DPD received a request for an “informal” code interpretation from Denise Hannan, General Counsel of South Lake Union Hotel, requesting that DPD determine whether the Land Use Code would allow a “modified” MUP application for South Lake Union Hotel to extend the height of its proposed structure under Project 3013982 to 240 feet, or approximately eight additional stories. The additional floors would be occupied by residential units. To support its request for this determination, South Lake Union Hotel noted in its letter that the zoning of the subject site was about to change to Seattle Mixed and that it already had permission to build a 160-foot tower, so addition of more stories to the project, if compliant with the new zoning, would not create any nonconformity to either height limits or to the Seattle Mixed regulations governing “tower spacing,” which limit the number of towers on city blocks in the SM zone.

6. On June 13, 2013, Seattle City Ordinance 124172 became effective. Under Ordinance 124172, SM zoning became applicable to the 300 Terry Avenue North property and to the rest of the block that it shares with Amazon Phase IV. As noted in Finding of Fact No. 4, the existing Project 3013982 is vested to the previous IC-65 zoning under the regulations for vesting of projects subject to the design review process of the Land Use Code.
7. On August 14, 2013, DPD provided a letter to South Lake Union Hotel responding to their letter of June 13. In its August 14 letter, DPD concluded that the hotel project proposed in Project 3013982 is vested to the IC-65 zoning, but a project proposing a different and increased height under the Seattle Mixed standards in SMC Chapter 23.48, as amended by Ordinance 124172, was a new project proposal requiring new public notice and different zoning and land use analysis, and therefore must comply with the current regulations for Seattle Mixed zoning. South Lake Union Hotel filed the request for this formal interpretation on August 30, 2013.
8. The request for interpretation by South Lake Union Hotel does not further raise the nonconformity issues of its May 14 letter. Instead, it focuses on whether South Lake Union Hotel's project would comply with the "tower spacing" regulations of Chapter 23.48. South Lake Union Hotel notes in its request that the Amazon development "is a single permitted project which only fronts onto Boren with limited side walls, and no entrances, on Terry and Thomas." The request further notes that "the one-tower-per-block-front rule technically allows a block-long tower, but could potentially bar two smaller towers occupying less than half of the block front."
9. Master Use Permit 3008521, establishing use for future construction of Amazon Phase IV, was issued December 4, 2008. A number of building permits have been issued for the project, as is common with large buildings in Seattle, but construction was completed under Seattle Building Permit 6165173, issued April 17, 2009. Final approval was given, and a Certificate of Occupancy issued, on December 14, 2010. The following description appears on page 3 of the land use decision for MUP 3008521:

"The project includes two connected twelve-story structures with six levels of below-grade parking. The project anticipates construction of approximately 517,500 square feet of above-grade space for administrative office uses and approximately 26,450 square feet of retail space at grade (totaling approximately 544,000 square feet). The two structures will be linked by a multi-story glass connection approximately 60 feet above the central courtyard. Parking for 780 cars will be located below-grade in two garages. The project includes excavation of approximately 113,969 cubic yards of material."

One of the two 12-story structures occupies the entire northerly end of the "L-shaped" development site, with frontage primarily on Harrison Street but also with frontage on Terry Avenue North and Boren Avenue North. The second 12-story structure occupies most of the southerly part of the site, the long part of the L shape, and has frontage primarily on Boren Avenue North but also frontage on Thomas Street. (See aerial photo above.) According to

plans approved as part of the review of MUP 3008521, the two above-ground structures are built to the 160-foot height limit allowed under the former IC-65 zoning applicable to the property.

10. Prior to permitting and construction of Amazon Phase IV, the City Council adopted Seattle City Ordinance 122611, effective January 20, 2008. According to the Director's Report that was prepared to accompany and explain the proposed legislation on its transmittal to Council, the purpose of the code changes was to allow for increases in permitted height and density under specified conditions in certain areas with IC zones in the South Lake Union Urban Center. Structure height up to 160 feet was proposed subject to participation in housing and childcare bonus programs and to implement policies in the South Lake Union Urban Center Neighborhood Plan. The report notes in part that "a potential tenant" had been identified that would "bring approximately 6,000 jobs to the neighborhood in the next five years," and "this would be a substantial contribution to the neighborhood's 20-year employment target." The tenant would locate in development to be constructed "on one and a half blocks between John and Harrison Streets and between Boren and Terry Avenues." Changes to height and floor area ratio (FAR) standards would implement goals of both the neighborhood plan and the City's Comprehensive Plan to add jobs and housing in the area. With respect to height limits, the Director's Report notes the following recommendation on page 3:

"1. Limit the building height to 160 feet. While this would be the highest allowable structure height in South Lake Union, it is only somewhat higher than the 125-foot height limits on the block immediately south of this site. Combining additional height with the FAR limit discussed below will permit a building that is less blocky than a building with the same FAR but at a lower height."

11. The most recent amendments to the zoning and land use regulations for South Lake Union were under Ordinance 124172, effective June 13, 2013. In the Director's Report that was prepared to explain this proposed legislation, one of the key components of the legislation was noted, at page 3, as follows

"Establishing new development standards to ensure towers are well-spaced and floorplates are limited to preserve openness to the sky and public views through the neighborhood."

On page 11, the report notes in part as follows:

"Development in the neighborhood under terms of the proposed legislation will result in a neighborhood characterized by a mix of uses and building types, an urban form that steps down in height and tower density from adjacent downtown neighborhoods, parks and open space to support new residential communities, and a lively pedestrian environment. Key objectives guiding this legislation include:

1. Height increases that allow for diversity in architectural form throughout the neighborhood while incorporating development standards that carefully manage

tower density. These controls include tower setbacks, tower spacing, floor plate size limits, commercial FAR limits, and more restrictive limits on the number of towers per block closer to Lake Union.”

The report cites preservation of views on page 14 as one reason for tower spacing, and on pages 15 and 16 discusses the use of development standards to “preserve a sense of openness” and lists a variety of standards to achieve “key urban design goals,” including the following at the top of page 16:

“Limits on Towers Per Block. The proposal would limit residential towers to one residential tower per block closer to the lake with no commercial towers allowed. Two towers would be permitted throughout the rest of the neighborhood. Additionally, commercial towers are limited to no more than one per block unless they are developed on a site with at least 60,000 square feet of lot area and provide through block pedestrian connection.”

12. SMC Section 23.48.009.B establishes floor area ratio (FAR) limits in SM zones. Subsection B.3 provides in part as follows:

“3. FAR for development including a mix of residential and nonresidential uses.

* * *

b. For the SM 160/85-240 and SM 240/125-400 zones, residential uses are allowed above the base height limit in structures having nonresidential uses that exceed 85 feet in height, if the following conditions are met:

- 1) All uses are subject to the maximum FAR limit for nonresidential uses in Table B for 23.48.009, and for the purposes of calculating FAR, floor area in residential use shall be included as chargeable floor area;
- 2) If residential and nonresidential uses are combined on the same story, the floor area limits of subsection 23.48.013.B.3 apply;
- 3) Stories occupied only by residential uses may exceed the maximum height limit for nonresidential uses, and all stories above the base height limit for residential use that are only occupied by residential uses are subject to the floor area limits of 23.48.013.B.2 and the maximum facade width standards of 23.48.013.E;
- 4) Extra residential floor area above the base height limit for residential use shall be obtained as provided for in Section 23.48.011
- 5) Extra nonresidential floor area above the base FAR for nonresidential uses shown on Table B for 23.48.009 shall be obtained as provided for in Section 23.48.011; and

- 6) For the purposes of applying standards for limits on towers per block in subsection 23.48.013.F, the project shall be considered to be a structure with nonresidential uses exceeding 85 feet in height; and
- 7) For the purposes of applying tower separation standards in subsection 23.48.013.G, the structure shall be considered to be a residential tower.”

* * *

13. SMC Section 23.48.010 establishes structure height standards in the SM zones and provides in part as follows:

“23.48.010 Structure height

A. Base and maximum height limits

1. Except as otherwise provided in this Section 23.48.010, maximum structure height for Seattle Mixed (SM) zones are as designated on the Official Land Use Map. In certain zones, as specified in this Section 23.48.010, the maximum structure height is allowed only for particular uses or only under specified conditions, or both. Where height limits are established for portions of a structure that contain specified types of uses, the applicable height limit for the structure is the highest applicable height limit for the types of uses in the structure, unless otherwise specified.

2. In zones listed below in this subsection 23.48.010.A.2, the applicable height limit for portions of a structure that contain nonresidential and live-work uses is shown as the first figure after the zone designation, and the base height limit for portions of a structure in residential use is shown as the first figure following the “/”. The third figure shown is the maximum residential height limit. Except as stated in Section 23.48.010 (height exceptions), the base residential height limit is the applicable height limit for portions of a structure in residential use if the structure does not gain extra residential floor area under the provisions of Chapter 23.58A, and the maximum residential height limit is the height limit for portions of a structure in residential use if the structure includes extra floor area under the provisions of Chapter 23.58A and if the structure complies with the standards for tower development specified in Section 23.48.013 (Upper-level development standards) and Section 23.48.014 (street-level development standards):

SM 85/65-125

SM 85/65-160

SM 160/85-240

SM 240/125-400”

* * *

15. SMC Section 23.48.013 establishes upper level development standards for specific building types in SM zones in the South Lake Union Urban Center and provides in part as follows:

“23.48.013 Upper-level development standards for specific building types in SM zones in the South Lake Union Urban Center

Lots in the SM 85/65-125, SM 85/65-160, SM 160/85-240, SM 85-240, and SM 240/125-400 zones that are located within the South Lake Union Urban Center are subject to upper-level development standards that may include upper level coverage limits, gross floor area limits and podium heights, upper-level setbacks, facade modulation, maximum facade widths, a limit on the number of towers per block, and tower separation requirements, as specified in this Section 23.48.013. For the purpose of this Section 23.48.013, a tower is either a structure with nonresidential uses above a height of 85 feet, the podium, or a structure that has residential uses that exceed the base height limit established for residential uses in the zone under subsection 23.48.010.A.2.

* * *

F. Limit on tower structures per block. The number of towers permitted on a block, which for the purposes of this subsection 23.48.013.F is defined as the area bounded by street lot lines, shall be as follows:

1. Only one residential tower, or one structure with nonresidential uses exceeding 85 feet in height, is permitted on a single block front, except as further limited by subsections 23.48.013.F.3, 23.48.013.F.4, and 23.48.013.F.5.
2. For purposes of this subsection 23.48.013.F an existing tower is either:
 - a. A tower that is physically present, except as provided below in subsection 23.48.013.F.2.b; or
 - b. A proposed tower for which a Master Use Permit decision has been issued, unless and until either:
 - 1) the Master Use Permit issued pursuant to such a decision expires or is cancelled, or the related application is withdrawn by the applicant, without the tower having been constructed; or
 - 2) a ruling by a hearing examiner or court reversing or vacating such a decision, or determining such decision or the Master Use Permit issued thereunder to be invalid, becomes final and no longer subject to judicial review.

* * *

5. Only one structure with nonresidential uses exceeding 85 feet in height is permitted on a block, unless the structure is permitted under Section 23.48.017 or unless all of the following conditions apply.
 - a. The structure is on a lot with a minimum area of 60,000 square feet. The area of one or more lots, separated only by an alley, may be combined for the purposes of calculating the minimum required lot area under this subsection 23.48.013.F.5. The minimum lot area is 59,000 square feet if the lot area was reduced below 60,000 square feet as a result of acquisition of right-of-way by the City;
 - b. A minimum separation of 60 feet is provided between all portions of structures on the lot that exceed the limit on podium height shown on Map A for 23.48.013. If the lot includes a qualifying Landmark structure, an average separation of 60 feet is permitted.
 - c. A minimum of 15 percent of the lot area is provided as landscaped open space at ground level, allowing for some area to be provided above grade to adapt to topographic conditions, provided that such open space is accessible to people with disabilities. The required open space shall have a minimum horizontal dimension of 15 feet and shall be provided as one continuous area.
 - d. A pedestrian connection meeting the development standards of subsection 23.48.014.F for through-block pedestrian connections for large lot developments is provided though the lot to connect the north-south avenues abutting the lot. If the lot abuts an avenue that has been vacated, the connection shall be to an easement providing public access along the original alignment of the avenue. In addition, if the slope of the lot between the north-south avenues exceeds a slope of 10 percent, a hill-climb shall be provided.
 - e. The application of the provisions in this subsection 23.48.013.F.5 shall not result in more than two structures on a block with either nonresidential uses above 85 feet in height or with residential use above the base height limit for residential use, except as allowed by subsection 23.48.013.F.5.f.
 - f. For lots that, as a result of a street vacation, exceed 150,000 square feet, the Director shall, as a Type 1 decision, determine the permitted number of structures with nonresidential uses above 85 feet in height or with residential use above the base height limit, based on the limits in subsection 23.48.013.F.5.e as applied to the block conditions existing prior to the street vacation.
 - g. The Director shall make a determination of project impacts on the need for pedestrian and bike facilities and complete a voluntary agreement between the property owner and the City to mitigate impacts, if any. The Director may consider the following as impact mitigation:
 - 1) Pedestrian walkways on a lot, including through-block connections on through lots, where appropriate, to facilitate pedestrian circulation by connecting structures to each other and abutting streets;

- 2) Sidewalk improvements, including sidewalk widening, to accommodate increased pedestrian volumes and streetscape improvements that will enhance pedestrian comfort and safety;
 - 3) Improvements to enhance the pedestrian environment, such as providing overhead weather protection, landscaping, and other streetscape improvements; and
 - 4) Bike share stations.
- h. For development that exceeds 85,000 or more square feet of gross office floor area, the Director shall make a determination as to the project's impact on the need for open space. The Director may limit floor area or allow floor area subject to conditions, which may include a voluntary agreement between the property owner and the City to mitigate impacts, if any. The Director shall take into account subsection 23.49.016.A in assessing the demand for open space generated by an office development in an area permitting high employment densities.
- 1) The Director may consider the following as mitigation for open space impacts:
 - a) Open space provided on-site or off-site, consistent with the provisions in subsection 23.49.016.C, or provided through payment in lieu, consistent with subsection 23.49.016.D, except that in all cases the open space shall be located on a lot in an SM zone that is accessible to the development's occupants,
 - b) Additional pedestrian amenities through on-site or streetscape improvements provided as mitigation for impacts on pedestrian facilities pursuant to subsection 23.48.013.F.3.g., and
 - c) Public space inside or on the roof of a landmark building.
 - 2) The Director may approve open space in lieu of that contained or referred to in subsection 23.49.016.C to mitigate project impacts, based on consideration of relevant factors, including the following:
 - a) the density or other characteristics of the workers anticipated to occupy the development compared to the presumed office employment population providing the basis for the open space standards applicable under Section 23.49.016; and
 - b) characteristics or features of the development that mitigate the anticipated open space impacts of workers or others using or occupying the project.”

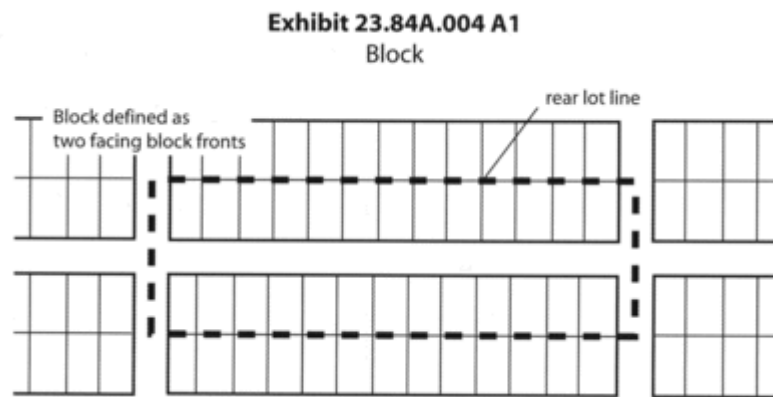
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16. Section 23.48.017, cited in subsection 23.48.013.F.5, is for certain structures containing research and development laboratory uses and administrative office associated with

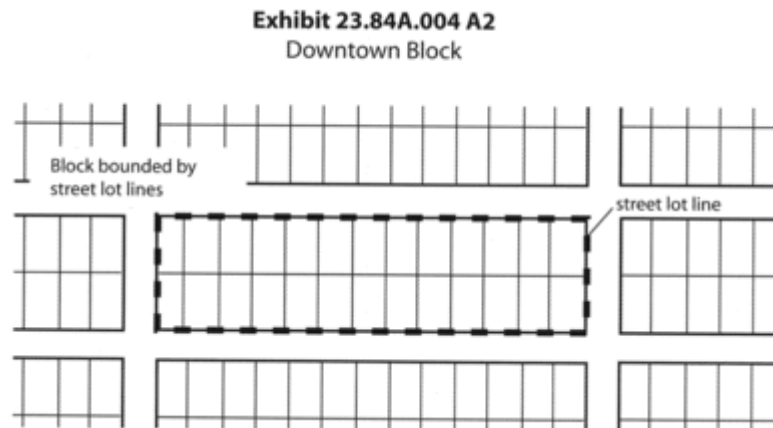
research and development laboratories, and does not apply to a hotel and residential structure as proposed by South Lake Union Hotel.

17. SMC Section 23.84A.004 defines the terms “block,” “block face,” and “block front” as follows:

“‘Block.’ In areas outside downtown zones, a block consists of two (2) facing block fronts bounded on two (2) sides by alleys or rear lot lines and on two (2) sides by the centerline of platted streets, with no other intersecting streets intervening, as depicted in Exhibit 23.84A.004 A1.



In downtown zones, a block consists of the area bounded by street lot lines, Exhibit 23.84A.004 A2.”

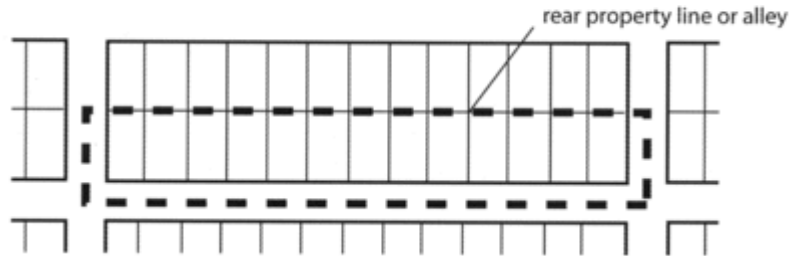


“‘Block face.’ See ‘Block front.’”

“‘Block front’ means the land area along one (1) side of a street bound on three (3) sides by the centerline of platted streets and on the fourth side by an alley or rear lot lines (Exhibit 23.84A.004 B).”

Exhibit 23.84A.004 B

Block Front



18. The following terms are defined in SMC Section 23.84A.038:

* * *

“‘Tower’ means the portion of a structure above the podium height established for structures that exceeds a specified height in a Seattle Mixed (SM) zone.

‘Tower, nonresidential’ means the portion of a structure in nonresidential use above the podium height established for structures that exceeds a specified height in a Seattle Mixed (SM) zone.

‘Tower, residential’ means the portion of a structure in residential use above the podium height established for structures that exceeds the applicable base height limit for residential uses in a Seattle Mixed (SM) zone.”

* * *

19. SMC Section 23.76.026 sets forth the regulations for vesting of MUP applications. There are no regulations in this section or elsewhere in the Code that specifically apply to changes to a MUP application. DPD Tip 224B applies to revision of issued MUPs, and says in part on the first page:

“Proposed changes to a MUP that have little or no effect on the design or environmental impact of the originally approved permit may be considered minor revisions. Proposed substantive changes and/or changes that require additional impact analysis or approvals may be considered major revisions.”

The Tip also says on the first page that major MUP revisions may require public notice of the proposed revision and may require a new written appealable Director’s decision.

Conclusions

1. South Lake Union Hotel has applied to build a hotel structure with a maximum height of 160 feet (15 stories) in its MUP application 3013982. This application is vested to the zoning designation of the 300 Terry Avenue North site that existed prior to June 13, 2013 (Finding of Fact No. 6).

2. The definitions of “tower,” “tower, nonresidential,” and “tower, residential,” are all applicable solely to structures in the SM zone (see Finding of Fact No. 18). Thus, the vested 160-foot hotel project is exempt from the definitions applicable to towers and can be constructed on the property without the need to comply with these definitions or with the tower spacing standards of the SM zoning.
3. While the current project is vested to the former IC-65 zoning, South Lake Union Hotel must substantially revise its current Master Use Permit to construct a modified 240-foot hotel and residential structure (see Finding of Fact No. 5). The Land Use Code does not specifically say that a MUP application loses its vested status if the development proposal is modified, but the proposal to increase structure height from 160 feet to 240 feet would only be permitted under current regulations for the SM 160/85-240 zone (see Finding of Fact No. 2). The review of such changes would be similar to review of a proposal to revise an issued MUP. Based on the practice set forth in DPD’s Tip 224B (Finding of Fact No. 19), it is most reasonable to conclude that the changes to Project 3013982, if proposed, would require a new public notice and review for compliance with current Code standards of the SM zoning, including the structure height limits of Section 23.48.010 and the upper level development standards of Section 23.48.013.
4. The South Lake Union Hotel project could potentially comply with the maximum height standard of 240 feet set forth in Section 23.48.010.A, for a structure containing residential uses, subject to application of the “incentive zoning” provisions of Chapter 23.58A, if residential uses are proposed above the base height limit of 160 feet that applies to a structure containing only nonresidential uses. However, compliance with the “upper level” development standards of Section 23.48.013 is also required.
5. Section 23.48.013, in its introductory paragraph, says that lots in the SM 160/85-240 zone, among other listed zones, are subject to various upper level development standards, including a limit on the number of towers per block. The first paragraph further says that a “tower” includes a structure with nonresidential uses above a height of 85 feet, also described as the “podium height,” or a structure that has residential uses above the base height limit for residential uses in the zone, which is also 85 feet (Findings of Fact Nos. 2 and 15). Section 23.48.009.B.3.b.6) further states that projects with residential uses allowed above the base height limit in structures having nonresidential uses that exceed 85 feet in height are treated as structures with nonresidential uses exceeding 85 feet in height for purposes of the limits on towers per block in subsection 23.48.013.F. (Finding of Fact No. 12.) The South Lake Union Hotel project, if modified to increase its height to 240 feet, would be subject to Section 23.48.013 under either standard applicable to structures over 85 feet in height, since it is proposed to contain a commercial hotel portion that would likely be proposed to a height of up to 160 feet, as per the current application, and the additional height that could be proposed between 160 and 240 feet would be achieved by adding residential floors through the incentive zoning process.
6. For the present analysis, subsection 23.48.013.F is most important. This subsection limits the number of “tower structures per block” in SM zones and provides in its first paragraph

that a block is to be defined as the area bounded by street lot lines. (Finding of Fact No. 15.) This corresponds to the definition of block used for Downtown zones and illustrated by Exhibit 23.84A.004 A2 (see Finding of Fact No. 17). Therefore the subject block to be analyzed is the block bounded by Terry Avenue N, Harrison Street, Boren Avenue N, and Thomas Street.

7. Subsection F.1 then says in part that only one residential tower or one structure with nonresidential uses exceeding 85 feet in height is permitted on a single block front. (See Finding of Fact No. 15.) As discussed in Conclusion 5, the South Lake Union Hotel project would be analyzed as a structure with nonresidential uses exceeding 85 feet in height under both Section 23.48.009.B and 23.48.013 and is subject to subsection F.1. The exceptions listed in subsections F.3 and F.4 do not apply in the SM 160/85-240 zone. Subsection F.5 then says that only one structure with nonresidential uses above 85 feet is permitted on a block, unless the structure is a research and development laboratory under Section 23.48.017 or the site meets all of the listed requirements under subsection F.5 such as having a minimum area of 60,000 square feet. The South Lake Union Hotel project is not proposed as a research and development laboratory and the subject site is smaller than 60,000 square feet, so the exceptions in F.5 do not apply. (See Findings of Fact Nos. 1 and 3.)
8. The block bounded by Terry Avenue N, Harrison Street, Boren Avenue N, and Thomas Street already contains a development comprising two towers above a single podium base, the Amazon Phase IV development (Findings of Fact Nos. 3 and 9). Under subsection 23.48.013.F.5, another structure with nonresidential uses exceeding 85 feet in height cannot be added to the block if it is not a research and development laboratory and if the site is less than 60,000 square feet in area, among other conditions. Thus, subsection F.5 would not permit the proposed 240-foot hotel and residential structure, if the hotel uses are proposed to occupy floors above 85 feet.
9. Even if the nonresidential use is limited to portions of the building at or below 85 feet in height, and the building were classified as a “residential tower” per the definition of “tower, residential” in Section 23.84A.038 and the last sentence of the first paragraph of Section 23.48.013 (i.e., it would be a “structure that has residential uses that exceed the base height limit established for residential uses in the zone”), the tower spacing standards of 23.48.013.F would not be met. While this design is not proposed by South Lake Union Hotel, subsection 23.48.013.F.1 also limits development of residential towers to one tower on a single block front. This subsection is written in the alternative to state that either one residential tower or one structure with nonresidential uses exceeding 85 feet in height is permitted on a single block front. The block front that includes the site of the South Lake Union Hotel project is the westerly half of the subject block, with the main frontage on Terry Avenue North and frontage on Thomas and Harrison Streets. This block front already includes the northerly tower of Amazon Phase IV, so subsection F.1 precludes an additional tower, whether residential or non-residential, on the South Lake Union Hotel site.
10. As described in Findings of Fact Nos. 10 and 11, the recent legislation affecting the South Lake Union neighborhood was clearly intended to increase structure height and density in the area, allowing taller and larger buildings than the previous commercial and industrial

zoning designations, while at the same time emphasizing an urban design that would encourage a mix of uses, be more open, and be more protective of views, as well as different in style and less intense in scale from adjacent Downtown areas. The neighborhood would be inviting to pedestrian activities and residential uses. These planning goals would be compromised by allowing a proliferation of traditional high rise "tower" structures. Thus, the towers were to be relatively sparse and separated by more lowrise or midrise development. It appears clear from the Director's report on the South Lake Union rezone ordinance 124172 that commercial towers in particular were to be limited to one per block and residential towers to two per block except near Lake Union, where one per block would be allowed. The South Lake Union Hotel project, even with residential floors added to it above the maximum height of 160 feet for nonresidential towers, is primarily a commercial project and not a residential tower. Therefore, its addition would be contrary to both the plain language of the code and to the legislative intent.

11. As noted earlier, the applicant has the vested right to build a 160-foot-tall structure under the prior IC zoning. The vested proposal does not meet current tower policy and regulations, so the applicant actually has a vested right to a larger structure than allowed by current regulations.

DECISION

The South Lake Union Hotel project 3013982 is vested to former code standards. A nonresidential structure up to 160 feet in height may be constructed on the property addressed as 300 Terry Avenue North. However, the project may not be revised under current code to increase overall structure height to a maximum of 240 feet. The revision would not comply with the "tower spacing" regulations of Section 23.48.013, as both the block front and the block on which the South Lake Union Hotel project would be constructed is already occupied by more towers than allowed under the current Land Use Code regulations.

Entered this 10th day of February, 2014.

(signature on file)

William K. Mills, Senior Land Use Planner
Department of Planning and Development

WKM/13-007